CONFERENCE OF THE COMMITTEE ON DISARMAMENT

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ENGLISH

VERBATIM RECORD OF THE CONTINUED PART OF THE
FOUR HUNDRED AND SEVENTY-FIFTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 3 July 1970, at 10.30 a.m.

Chairman: Mrs. A. MYRDAL (Sweden)

(Previous verbatim records in this series appeared under the symbols ENDC/PV.1-ENDC/PV.430).

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PRESENT AT THE TABLE

Argentina:	Mr. C. ORTIZ de ROZAS
	Mr. A.F. DUMONT
	Mr. V.E. BERASATEGUI
	Mr. M.E. DELPECH
Brazil:	Mr. R.E. SARAIVA GUERREIRO
	Mr. C.A. de SOUZA e SILVA
	Mr. L.F. PALMEIRA LAMPREIA
Bulgaria:	Mr. T. PETROV
	Mr. I. PEINIRDJIEV
Burma:	U KYAW MIN
Canada:	Mr. G. IGNATIEFF
	Mr. R.W. CLARK
	Mr. R.E. MOORE
Czechoslovakia:	Mr. M. VEJVODA
Ethiopia:	Mr. A. ZELLEKE
	Mr. G. AIENU
Hungary:	Mr. J. PETRAN
	Mr. I. SARKADI
	Mr. F. GAJDA
India:	Mr. N. KRISHNAN
Italy:	Mr. R. CARACCIOLO
	Mr. F.L. OTTIERI
	Mr. R. BORSARELLI
	Mr. U. PESTALOZZA

Japan:	Mr. H. TANAKA
	Mr. H. OTSUKA
	Mr. T. SENGOKU
	Mr. T. OSA
Mexico:	Mr. J. CASTAÑEDA
	Mr. S. SEPULVEDA
	Mr. R. VALERO
Mongolia:	Mr. D. ERDEMBILEG
	Mr. B. DASHTSEREN
	Mr. Z. ERDEMDO
Morocco:	Mr. M.A.A. KHATTABI
	Mr. A. BENKIRANE
Netherlands:	Mr. H.F. ESCHAUZIER
	Mr. E. BOS
Nigeria:	Mr. C.O. MOLLIST
	Mr. L.A. MALIKI
Pakistan:	Mr. K. AHMED
	Mr. T.O. HYDER
Poland:	Mr. W. MATORF
	Mr. K. ZYBYLSKI
	Mr. H. STEPOSZ
Romania:	Mr. I. DATCU
	Mr. C. MITRAN
	Mr. F. CHILIE
Sweden:	Mrs. A. MYRDAL
	Mr. A. EDELSTAM
	Mr. T. BENGTSON
	Mr. J. PRAWITZ

Union of Soviet Socialist Republics:	Mr. A.A. ROSHCHIN
	Mr. I.I. TCHEPROV
	Mr. L.A. NASTERKOV
	Mr. Y.C. NAZARKINE
United Arab Republic:	Mr. H. KHALLAF
	Mr. O. SIRRY
	Mr. Y. RIZK
United Kingdom:	Mr. I.F. PORTER
	Mr. J.T. MASEFIELD
	Mr. R. HOULISTON
	Mr. L.W. BOYES
United States of America	Mr. J.F. LEONARD
	Mr. A.F. NEIDLE
	Mr. W. GIVAN
	Mr. R.L. McCORMACK
Yugoslavia:	Mr. M. BOZINOVIC
Deputy Special Representative of the Secretary-General:	Mr. W. EPSTEIN

1. The CHAIRMAN (Sweden): We shall now continue the 475th plenary meeting of the Conference of the Committee on Disarmament which was postponed from yesterday. I declare the meeting open.

2. Before calling on the representative of Argentina, whose name was on the list of speakers yesterday, I wish to welcome the presence here today of Mr. Kutakov, Under-Secretary-General for Political and Security Council Affairs.

3. Mr. LEONARD (United States of America): We are also very pleased to note the presence here this morning of Mr. Kutakov, the United Nations Under-Secretary-General for Political and Security Council Affairs. We all understand that at the United Nations this distinguished visitor has followed our work, and we are very pleased that he is here today and is thus able to familiarize himself with the efforts and the accomplishments of this Committee.

4. Allow me to add that we very much regret that the meeting yesterday was interrupted and that the representative of Argentina was therefore unable to make his statement, which we are all looking forward to hearing this morning.

5. Mr. ROGACHEV (Union of Soviet Socialist Republics) (translation from Russian): We are very glad to welcome here among us Mr. Kutakov, the distinguished Under-Secretary. We regard your presence here in Geneva at this meeting of the Committee on Disarmament, Mr. Kutakov, as a mark of the interest taken by the Secretary-General of the United Nations in disarmament problems, since he meant you to attend our meeting here. We also regard it, Mr. Kutakov, as a sign of your own unflagging interest in these problems. We hope that your presence and your attendance at the debates which will take place here will help to strengthen your interest, and that of the Secretary-General and the United Nations as a whole, in these problems.

6. May I also associate my delegation with the regrets tendered to the distinguished representative of Argentina? We regard it as most unfortunate that events took this turn, and we ask him not to view that incident in an unfavourable light. We hope that the representative of Argentina will continue in the future to co-operate in this Committee's efforts to solve these problems, which are enormously important not only to the countries of those here present but to all mankind.

7. The CHAIRMAN (Sweden): I also wish from the Chair to express my regrets that the representative of Argentina was not able to make his statement yesterday, and I now invite him to do so.

8. Mr. ORTIZ de ROZAS (Argentina) (translation from Spanish): I am happy to know that the Committee is now resuming its normal tasks and that the procedural incident which arose yesterday is thus ended. I accept and am grateful for the apologies of the co-Chairmen and of yourself, Madam Chairman, because quite frankly I believe that they are justified and that the Argentine delegation and the whole Committee deserve them. I must say also that I am gratified that the interruption occurred, because it will enable Mr. Kutakov to hear the statement of the Argentine delegation, an advantage which otherwise he would not have enjoyed. I think I can now turn to the serious matters before this Committee.

9. My statement today, following an order of priority in relation to other subjects before this Conference, will be devoted exclusively to consideration of the draft treaty on prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof. My remarks will refer to the revised text (CCD/269/Rev.2) presented formally by the delegations of the United States of America and the Union of Soviet Socialist Republics on 23 April.

10. Before actually embarking on a detailed analysis of this question, I should like my first few words to testify to our gratitude for the efforts of the two co-sponsors to arrive at an understanding by combining their own interests and objectives with the proposals and suggestions made by various delegations both in Geneva and in the General Assembly of the United Nations. That is proof of the spirit of conciliation which guides the co-Chairmen and emphasizes the competence of our Committee as the principal negotiating body for disarmament.

11. The document is obviously a notable and encouraging advance on the earlier drafts (CCD/269 and CCD/269/Rev.1). In its basic parts it substantially resolves the points of most serious controversy, and gives us ground for hope that we are approaching the conclusion of a viable agreement on this subject. It is to be hoped that the genuine spirit of negotiation manifested so far will persist and that when the current session ends, we shall be able to put before the General Assembly at its twenty-fifth session a final draft which will command the approval of the Committee and thus obtain general support in it.

12. First of all I should like to express my delegation's satisfaction with the new wording of articles I, II and IV. The Argentine amendments to that part of the treaty have virtually been incorporated in full and the slight changes

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introduced in article I are perfectly acceptable to us since they help to clarify certain aspects by relating them to a suitable legal procedure and to the aims and methods of the instrument.

13. I need not now go into detail on the reasons which prompted those amendments. They were explained by our delegation in the First Committee of the General Assembly (A/C.1/PV.1722, provisional, pp. 87-92) when we submitted working paper A/C.1/997. I will merely repeat here what we have said in earlier statements on this subject in this Committee (CCD/PV.445, para. 54) and in the First Committee of the General Assembly (A/C.1/PV.1695, provisional, p.13-15): that the disclaimer clause -- which has now become article IV of the draft -- would have been invalidated in practice if in the remainder of the articles controversial concepts in the law of the sea were resorted to unnecessarily. Thus it was necessary, in addition to including this clause, to amend articles I and II of the previous version of the document (CCD/269/Rev.1). We are gratified to note that the co-Chairmen accepted that approach when drawing up the revised text, since this will also facilitate our work on the remainder of the draft during the coming weeks.

14. We have no doubt that the incorporation of our amendments will make those articles a good deal more widely acceptable, since, as the Committee may remember, the original versions were criticized on many grounds in the First Committee of the General Assembly. Thus we believe that we have helped to ensure that the draft, at least in this respect, will be more favourably received in the international community.

15. I should like to refer now to article III. Here too we notice substantial progress which brings us nearer to a more acceptable formula. In the same constructive spirit in which we have always approached these negotiations, we believe it necessary to consider this article most thoroughly: first because of the importance we attach to the verification system in the context of any measure relating to disarmament and arms control; and secondly because these are the only provisions which authorize and regulate in detail certain activities of particular importance to the contracting parties and which in substance might be described as the "operative" rules of the treaty.

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16. Because of the interests at stake, it is sensible that the careful drafting of those provisions should be an essential aspect of our work. In our opinion some paragraphs still require changes which will reflect more reasonably the approach that has been recognized by the co-Chairmen -- that is, to avoid raising irrelevant legal questions, and at the same time to adjust the draft to the amendments submitted by the delegation of Canada (A/C.1/992).

17. To begin with paragraph 1, we note that it introduces an incorrect idea in referring to the freedoms of the high seas. We do not believe that, to express the spirit of the draft, it is necessary to include a formula which is already clearly set out in the last preambular paragraph. We are convinced that verification activities should be carried out with the greatest efficiency, and we hope that in this respect the future treaty will be as clear as possible. But that is precisely what the present wording of the draft does not achieve. On the contrary, the mention of the freedoms of the high seas in the context of paragraph 1 leads to confusion and might elicit the same legal comments as those made on the earlier wording of articles I and II subsequently improved by the Argentine amendments.

18. It would therefore be better to delete those words from the paragraph, as the representative of Brazil, Mr. Saraiva Guerreiro, very properly suggested in his statement on 25 June (CCD/PV.473, para. 78). We should thus revert to the language of the working paper submitted by the delegation of Canada, which by omitting the reference to the freedoms of the high seas eliminates any possibility of legal controversy irrelevant to the purpose of the treaty.

19. I will now turn to paragraph 2 of article III. To allow States directly interested in inspection to participate in it, the draft refers to the "Parties in the region". This would avoid two kinds of difficulties.

20. First, a political solution is reached which side-steps any legal problem relating to the scope of certain rights that are much debated in the international community.

21. Secondly, various States are allowed to participate in cases where there are overlapping claims to certain sectors of the continental shelf. This wording is in fact a simple expedient to forestall situations which might otherwise cause some friction between the parties called upon to intervene in a verification procedure.

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22. The solution, however, does not appear so appropriate when analysed from the point of view of the control system. Indeed, there is no doubt that the expression "Parties in the region", being polyvalent, introduces considerable uncertainty and leaves those States which are to effect the verification to decide exclusively how far the expression shall apply. True, this same paragraph tries to overcome this difficulty by opening the doors to "any other Party so requesting". But then another problem arises: how is a party which has not been informed of "such consultation and co-operation", and may feel itself arbitrarily excluded from the flexible notion of "parties in the region", to get notice of the proposed verification activities so that it can apply for participation in them? As the draft is worded, the only logical reply is that it will be able to learn about the situation through news media such as newspapers and the radio -- which of course is not exactly a suitable means or one to be recommended for a treaty of this kind.

23. It may be worth recalling that the Antarctic Treaty[1/], to which my country is a party, provides a machinery of inspection on the spot which has been used periodically since the treaty's entry into force; and that there exists for this purpose a procedure for the exchange of information which, because of the small number of the States parties, has worked perfectly. To back up our argument, we wonder how many States represented here have become aware through the news media of the decision of a State party to the Treaty to carry out the inspections it authorizes.

24. It is therefore necessary to spell out the scope of the draft as clearly as possible. We believe that this could be done by mentioning expressly the coastal State party to the treaty, so that the sentence would read, "Parties in the region of the activities, in particular the coastal State", the rest of the paragraph remaining unchanged. That would be more precise and the respective legal positions would in no way be prejudged, since the addition would operate in the political context of the notion of "parties in the region".

25. I would say further that the co-Chairmen's draft itself gives the coastal State, in its articles I and II, a privileged status for elementary considerations of security. The same reasons which justify the reservation of the twelve-mile zone to the coastal State are valid in this case. We fail to see how it can be

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1/ United Nations Treaty Series, Vol. 402, pp.71 et seq.

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recognized that a State has certain special powers in that zone while at the same time another aspect of the draft disregards its legitimate interest in what could occur, for example, fifteen miles from its coast through the presence of nuclear weapons and other weapons of mass destruction. In short, to be consistent we should have to apply to these provisions of the treaty the criteria laid down in articles I and II.

26. Paragraph 6 of article III provides for the manner in which verification activities should be conducted. For this purpose it appears to reflect the provisions of the Geneva Convention on the continental shelf.[1/] I think I ought to reiterate here the undesirability of adhering to juridical formulae which are by no means generally upheld -- especially when they are employed partly for strengthening certain positions. The General Assembly's experience at its last sessio with the Geneva Convention on the Territorial Sea and the Contiguous Zone[2/] and its relation with this draft is very illuminating. Like that Convention, the instrument relating to the continental shelf has not obtained a representative number of ratifications; and it is therefore not difficult to foresee that the wording of this paragraph will be open to the same criticisms as were levelled in this connexion against the former articles I and II.

27. It must be borne in mind that quite recently the General Assembly, in its resolution 2574 A (XXIV), requested the Secretary-General --

> "... to ascertain the views of Member States on the desirability of convening at an early date a conference on the law of the sea to review the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas".

In other words, we are faced with a process which seeks to make substantial amendments to the law of the sea. The rules governing the continental shelf will undoubtedly be carefully analysed, and it is not difficult to predict that the Geneva Convention will be thoroughly scrutinized with the aim of correcting those rules which have prevented its general acceptance by the international community.

1/ United Nations Treaty Series, Vol. 499, pp. 311 et seq.

2/ United Nations Treaty Series, Vol. 516, pp. 205 et seq.

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28. We believe that the most desirable and appropriate thing to do would be to adopt a provision which, while recognizing the special legal status of the coastal State -- which is accepted to a greater or lesser degree by all countries -- would not reflect the provisions of any instrument in particular. The question cannot be settled in the context of the draft before us; consequently the most logical procedure would be to leave those details for other, future agreements governing the status of the continental shelf.

29. That solution is also the most appropriate if we remember the sound position taken by the representative of the Soviet Union, Mr. Roshchin, who in presenting the draft said —

> "This treaty is not intended to settle numerous issues of maritime law, to confirm or annul obligations assumed by States under other international agreements, or to anticipate any future solutions in this field." (CCD/PV.467, para. 21).

We of course agree entirely with that appreciation, but we cannot fail to point out, and to regret, that according to our interpretation the draft takes a definite position on this question. We therefore propose in paragraph 6 the deletion of the words "the natural resources of".

30. The last sentence of paragraph 3 omits -- quite properly, in our view -- the word "Party" which appeared in the Canadian working paper. Obviously, if the identity of the State concerned is unknown, one can hardly know whether it is or is not a party to the treaty. The present wording could, however, lead to error concerning its scope. At first sight the procedure provided in the draft is apparently applicable to Powers that do not sign the future treaty. If the inquiries referred to in paragraph 3 did not enable the identity of the responsible State to be determined, and it were not known until later when the verification procedures were started, the inspection could not continue unless the State were a party, for two reasons which we consider equally important: first, the provisions of the treaty would be res inter alios acta for that State; and secondly, exercise of the right conferred by the instrument could cause the very kind of international tension that the instrument is intended to avoid. We are sure that this was not the intention of the co-sponsors; but in fact the wording is not clear and we therefore see no need for retaining it in the draft, at least in its present form.

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31. Lastly, paragraphs 3 and 5 of the Canadian working paper contained references to international procedures, including the good offices of the Secretary-General of the United Nations. No such references appear in the revised draft. This is a pity, since they were aimed at helping the large majority of States whose level of technological development would not enable them to undertake verification activities themselves. If the Canadian text raises difficulties for some delegations, there is nothing to preclude consideration of alternative formulas acceptable to all the States represented here.

32. The other novelty to be found in the draft text of the co-Chairmen is the new article VIII. We believe it was necessary to correct that omission, and we are gratified to note that the co-sponsors have accepted the proposal of the delegation of Mexico (A/C.1/995). That move was designed, most logically, to safeguard the obligations assumed in other instruments, for instance in the Treaty of Tlatelolco (ENDC/186), the scope of which is broader than that of the draft before us.

33. I have analysed article III in detail because I believe that the text still contains a number of defects which should be corrected. We should have wished other amendments to be made to the draft, but we shall refrain from mentioning them at this time because we share the view expressed by the representative of the United States, Mr. Leonard, that --

> "... there is a need at some point to distinguish between what is essential to the basic objectives of the treaty and what may be desirable but not indispensable from the point of view of various States." (CCD/PV.467, para 40).

34. We believe that the comments we have made represent a genuine effort to point out only those difficulties which are specially important to the Argentine delegation, and we trust that this will be duly taken into account by the co-sponsors. We know that there are no perfect treaties, and this one will undoubtedly be no exception; but we should at least strive to produce an instrument representing an acceptable balance between the interests of the States participating in our negotiations. We are convinced that our observations will help to concord positions

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which, though they may at first glance appear divergent, none the less offer much latitude for understanding. My delegation is prepared, as always, to continue to collaborate enthusiastically in the search for solutions which will command the widest support for the document we are drafting.

The Conference decided to issue the following communiqué:

"The Conference of the Committee on Disarmament today continued its 475th plenary meeting in the Palais des Nations, Geneva, under the chairmanship of H.E. Mrs. Alva Myrdal, representative of Sweden.

"Statements were made by the Chairman and by the representatives of the United States of America, the Union of Soviet Socialist Republics and Argentina.

"The next meeting of the Conference will be held on Tuesday, 7 July 1970, at 10.30 a.m.".

The meeting rose at 11.45 a.m.